

**Community Preservation Act Committee (CPAC)**  
**Meeting Minutes**  
**Thursday, November 20, 2008**

**CALL TO ORDER:** The meeting was called to order by Peter Jessop at 6:07 PM in the Community Room of the Police Station.

**COMMITTEE MEMBERS IN ATTENDANCE:**

Denise Barberet, Louis Greenbaum, Peter Jessop, Chair, Ellen Kosmer, Vince O'Connor, Vice Chair (arr 6:26), Mary Streeter, Clerk, Stan Ziomek

**COMMITTEE MEMBERS ABSENT:** Liv Baker, Vladimir Morales

**STAFF / OTHERS IN ATTENDANCE:**

Sonia Aldrich, Comptroller, John Musante, Larry Shaffer, Diana Stein, Select Board liaison, Joel Bard, Town Counsel, Linda Chalfant, Dave Ziomek, Roy Rosenblatt, one other

**AGENDA**

Joel Bard for opinion on SJC's ruling on the Newton case and any other questions

Status on approved projects

1. Open Space – Dave Ziomek (Linda Chalfant – Recreation)
2. Historic Preservation – Jonathan Tucker
3. Affordable Housing – Roy Rosenblatt

Approve minutes of past meetings

Financials (including requested reports on returned appropriations)

Decide when to have the public hearing

Other items

Adjourn

**Joel Bard for opinion on SJC's ruling on local impact of the Newton case and other questions**

Joel Bard said the Court was skeptical that restoration was preservation. Synthetic turf was clearly an inappropriate use of CPA funds. There is a big factual difference between the Newton case and the Plum Brook soccer fields. Our CPA commitment was made several years ago, voted, and the money spent. Ten taxpayers have not come forward to bring suit against the Town in a timely manner. He referred to "Laches" which is a legal term meaning you are too late, you sat on your rights. In Newton they appropriated money and 10 days later taxpayers were in court.

Atty. Bard also commented on a Wayland High School project that funded artificial turf on a field. Middlesex Superior Court ruled that a suit must be filed before money is spent. Peter said this committee is looking much more closely at projects that come before us. Stan said he thought the former Town Counsel said it was okay. Atty. Bard said a lot of Town Counsels said that – previously there was no law.

Larry Shaffer said as this committee receives applications, he wants to forward them to Mr. Bard and get his opinion. He said he doesn't intend to spend any more CPA money on the Plum Brook soccer fields. Any expenses would come from the DPW now. Peter said he guesses we would recommend funding the debt service to Town Meeting. Vince was concerned that since almost no litigation is the same as our situation, that if the Town continued to fund this, it would be inviting litigation. Peter said we won't be making any recommendations until Spring Town Meeting. Vince had asked for a copy of the Court's opinion and Larry Shaffer said he would get a copy of the opinion to the Chair.

Dave Ziomek asked about signs for recreation and money for brochures. Atty. Bard said generally the courts are not fans of signs. Peter asked about projects approved but where money has not yet been expended? Larry Shaffer said he would look at that with Town Counsel. Mary asked whether CPA funds could be used to rehabilitate older homes for affordable housing. Roy Rosenblatt said yes, if it's deed restricted. Atty. Bard said we are allowed to set an amount up to 5% for administrative expenses. Vince asked how specific an appraisal has to be and what types of publications are allowed. He commented that

we have not charged any staff person's time to CPA. Atty. Bard said there are towns that charge his time against CPA for deed restrictions. Louis commented about Civil War panels and said that the Historical Commission is planning to request signage. Atty. Bard said people have been doing that. You can restore a historical resource. The argument would have to be, "Is it preservation?" He thinks the Court will find educational signage to be an inappropriate use of CPA funds. Vince commented that we could take signs from administrative funds. Atty. Bard said we have no guidance on this. Larry Shaffer said he doesn't want to brush too close to the limits. Vince asked whether historic restoration on part of a structure would require a historic preservation restriction. Atty. Bard said absolutely, this comes up when churches do historic restorations. The Town has to get back something in a real estate nature.

### **Status on approved projects**

#### **Open Space – Dave Ziomek (Linda Chalfant – Recreation)**

Peter asked Dave Ziomek to talk to Joel Bard or Larry Shaffer about the \$20,000 in signs. Dave said he thought each staff representative would be here to discuss prior year approvals. He discussed his entire list of Open Space/Recreation projects with unspent funds - 7 items. Peter said the only concern is about number 1 - Signs for Town/School Fields. Vince said he would like to see Joel Bard's opinion on appraisals in writing. Denise wondered if administrative funds could be used for appraisals and surveys. Mary asked if we are done with the Kimball House costs. Dave Ziomek said the mitigation agreement calls for \$100,000 or 10 acres of land put in APR. We have 2 ½ years - we have some land called the Wentworth Farm off Old Farm Road - 10 acres of wetland plus an old farm field of 5 tillable acres. Dave may bring an article on this before Spring 2009 Town Meeting.

A motion was made by Mary, 2<sup>nd</sup> by Stan to strongly urge Town staff to refrain from spending any money on signs for recreational fields until it has definitively been approved by Town Counsel. Voted 7-0 to approve.

### **Historic Preservation**

Denise commented that the costs related to the Kimball House seem to keep getting bigger. She asked what has been spent in total. Louis said he would provide general information on a few of the items on the Historic Preservation list. He said the \$81,000 approved for the Hills lots would go back to the fund. He said they may resubmit. Dave Ziomek said that given the economy, there might be an opportunity to come back to the owners. Louis said money for the work on the Carriage House was not accepted by the Women's Club because they were reluctant to agree to the covenant, so \$8,800 is coming back to the fund.

Denise commented that according to the list we were given, nothing has been encumbered or spent. Peter said this is a similar situation to the signs. Dave Ziomek suggested we email Jonathan Tucker with any questions.

A motion was made by Mary, 2<sup>nd</sup> by Vince to strongly urge Town staff to get a definitive opinion from Joel Bard before expending any CPA funds. Voted 7-0 to approve.

### **Affordable Housing – Roy Rosenblatt**

Roy Rosenblatt said the unencumbered \$150,000 in mortgage subsidy money is difficult to spend because due to the sub-prime problem, people can't get mortgages. The program has been re-advertised. If that doesn't work, he would recommend that it be dropped. On Olympia Drive the RFP went out Dec. 10, 2008. He said we might run into the same problems. The State is not funding home ownership, so we could try rental. Denise said we are supposed to spend 10% in each category each year. Mary asked if we could set aside 10%. Peter said that we need to keep track of these amounts. Roy Rosenblatt said we might want to save it for Olympia Drive and West Pomeroy Lane in the village center.

### **MINUTES**

A motion was made by Denise, 2<sup>nd</sup> by Louis to accept the minutes of 3/11/08; voted 5-0-2 to approve with minor grammatical corrections; (Ellen and Stan abstained.)

A motion was made by Denise, 2<sup>nd</sup> by Louis to accept the minutes of 3/25/08; voted 4-0-3 to approve with minor grammatical corrections; (Ellen, Mary, and Stan abstained.)

A motion was made by Denise, 2<sup>nd</sup> by Stan to accept the minutes of 4/15/08; voted 7-0 to approve with minor grammatical corrections.

A motion was made by Denise, 2<sup>nd</sup> by Louis to accept the minutes of 5/14/08; voted 5-0-2 to approve with minor grammatical corrections; (Louis and Stan abstained.)

A motion was made by Stan, 2<sup>nd</sup> by Ellen to accept the minutes of 10/9/08; voted 7-0 to approve with minor grammatical corrections.

### **FINANCIAL STATUS**

The estimated year-end balance is \$218,168. There will be returned appropriations – the Historical Commission is returning approximately \$90,000. There is \$8,000 returning from the Tietjen APR. Peter estimates that we should have \$579,355.18 to spend.

Mary has researched all of the Town Meeting CPA articles approved since the CPA law was voted here. She will email it to the committee after it is proofread. She suggested that Town Meeting be informed about which articles did not come to fruition. Vince said we should be ready if Rolling Green affordable housing should come before us – 72 units.

### **ADJOURNMENT:**

The meeting was adjourned at 8:10 PM. Motion by Stan, 2<sup>nd</sup> Denise; Voted unanimously.

### **NEXT MEETINGS:**

Thursday, January 8, 2009 at 7 PM in the Town Room, 2<sup>nd</sup> Floor, Town Hall  
Public Hearing TBA

### **DOCUMENTS DISTRIBUTED**

- Agenda
- Kopelman & Paige fax “Re: Plum Brook Project – Use of Funds” 11/20/08
- Memorandum from Dave Ziomek “Open Space Accounts – Project Status” & Accounts for 3101 CPA & 5181C Open Space 11/17/08, 2 pages
- Brief Summary of Historic projects from Jonathan Tucker & Accounts for 3101 CPA & 5182C Historic Preservation, 2 pages
- Accounts for 3101 CPA & 5180C Affordable Housing, 1 page
- Financial Status of CPA Funds 11/17/08, 1 page
- Financial Status of CPA Funds amended 11/20/08, 1 page
- Returned or Reallocated Funds, 1 page
- Email from Dave Ziomek “New CC rep to CPAC” 11/15/08
- Emails between Sonia Aldrich & Terry Williams, DOR concerning administrative expenses, Oct. 15 & 16, 2008, 2 pages
- Letter “Call for Proposals Qualifying for CPA Funding” 10/22/08, 2 pages
- Community Preservation Initiatives Report Fiscal Year Ended June 30, 2008, 10 pages
- Draft Minutes from 10/9/08

Respectfully Submitted by: Mary Streeter, Clerk

Minutes Approved: February 5, 2009